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HOUSE BILL 309

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

J. Paul Taylor

AN ACT

RELATING TO PUBLIC RECORDS; DEFINING TERMS IN THE PUBLIC RECORDS ACT; PROVIDING FOR CONFIDENTIAL RECORDS RETENTION; PROVIDING FOR ACCESS TO CONFIDENTIAL RECORDS, INCLUDING CONFIDENTIAL PERSONAL IDENTIFICATION INFORMATION, AT THE END OF A RECORDS RETENTION AND DISPOSITION SCHEDULE PERIOD OR OTHER PERIOD; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 14-3-2 NMSA 1978 (being Laws 1959, Chapter 245, Section 2, as amended) is amended to read:

"14-3-2. DEFINITIONS.--As used in the Public Records Act:

A. "commission" means the state commission of public records;

B. "administrator" means the state records administrator;

underscored material = new
[bracketed material] = delete

1 C. "public records" means all books, papers, maps,
2 photographs or other documentary materials, regardless of
3 physical form or characteristics, made or received by any
4 agency in pursuance of law or in connection with the
5 transaction of public business and preserved, or appropriate
6 for preservation, by the agency or its legitimate successor as
7 evidence of the organization, functions, policies, decisions,
8 procedures, operations or other activities of the government or
9 because of the informational and historical value of data
10 contained therein. Library or museum material of the state
11 library, state institutions and state museums, extra copies of
12 documents preserved only for convenience of reference and
13 stocks of publications and processed documents are not
14 included;

15 D. "agency" means any state agency, department,
16 bureau, board, commission, institution or other organization of
17 the state government, the territorial government and the
18 Spanish and Mexican governments in New Mexico;

19 E. "records center" means the central records
20 depository, which is the principal state facility for the
21 storage, disposal, allocation or use of noncurrent records of
22 agencies or materials obtained from other sources;

23 F. "microphotography system" means all
24 microphotography equipment, services and supplies; [and]

25 G. "microphotography" means the transfer of images

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[bracketed material] = delete

1 onto film and electronic imaging or other information storage
2 techniques that meet the performance guidelines for legal
3 acceptance of public records produced by information system
4 technologies pursuant to [~~regulations~~] rules adopted by the
5 commission;

6 H. "personal identification information" means the
7 name, social security number, military identification number,
8 home address, telephone number, email address, fingerprint,
9 photograph, identifying biometric data, genetic identification,
10 personal financial account number, state identification number,
11 driver's license number, alien registration number, government
12 passport number, personal taxpayer identification number or
13 government benefit account number of a natural person;

14 I. "records custodian" means the statutory head of
15 the agency using or maintaining the records or his designee;
16 and

17 J. "records retention and disposition schedules"
18 means rules adopted by the commission pursuant to Section
19 14-3-6 NMSA 1978 describing records of an agency, establishing
20 a timetable for their life cycle and providing authorization
21 for their disposition. "

22 Section 2. A new section of the Public Records Act is
23 enacted to read:

24 "[NEW MATERIAL] ACCESS TO CONFIDENTIAL RECORDS. --

25 A. Notwithstanding any other provision of law, any

. 149957. 1

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1 public record deemed by law to be confidential and that is
2 required by a records retention and disposition schedule to be
3 maintained longer than twenty-five years shall, after twenty-
4 five years from date of creation, no longer be confidential and
5 shall be accessible to the public, except:

6 (1) personal identification information deemed
7 confidential by law shall remain confidential for one hundred
8 years after date of creation, unless a shorter duration is
9 otherwise provided by law;

10 (2) records that are confidential pursuant to
11 Section 18-6-11 NMSA 1978; and

12 (3) records the disclosure of which is
13 prohibited by federal law.

14 B. This section shall not limit or remove the
15 discretion of a records custodian under the Inspection of
16 Public Records Act to release or withhold a public record. "

17 Section 3. APPROPRIATION. -- Twenty-five thousand dollars
18 (\$25,000) is appropriated from the general fund to the state
19 commission of public records for expenditure in fiscal year
20 2005 for the development and delivery of a training program to
21 instruct agencies in the implementation of confidential records
22 retention provisions. Any unexpended or unencumbered balance
23 remaining at the end of fiscal year 2005 shall revert to the
24 general fund.